

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

951J0298

## HOUSE BILL NO. 1231

Introduced by: Representatives Dykstra, Gillespie, and Murschel and Senators Jaspers,  
Brown, Dempster, Dennert, Diedrich (Larry), and Duxbury

1 FOR AN ACT ENTITLED, An Act to require that municipalities and counties establish criteria  
2 and conditions in the zoning ordinance before authorizing certain conditional uses.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 11-4 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 A municipal zoning ordinance adopted pursuant to this chapter that authorizes a conditional  
7 use of real property shall specify the approving authority, each category of conditional use  
8 requiring such approval, the zoning districts in which a conditional use is available, and the  
9 criteria for evaluating each conditional use. The approving authority shall consider the stated  
10 criteria, the objectives of the comprehensive plan, and the purpose of the zoning ordinance and  
11 its relevant zoning districts when making a decision to approve or disapprove a conditional use  
12 request.

13 Section 2. That chapter 11-4 be amended by adding thereto a NEW SECTION to read as  
14 follows:

15 A conditional use is any use that, owing to certain special characteristics attendant to its



operation, may be permitted in a zoning district subject to the evaluation and approval by the approving authority specified in section 1 of this Act. A conditional use is subject to requirements that are different from the requirements imposed for any use permitted by right in the zoning district.

Section 3. That chapter 11-2 be amended by adding thereto a NEW SECTION to read as follows:

A county zoning ordinance adopted pursuant to this chapter that authorizes a conditional use of real property shall specify the approving authority, each category of conditional use requiring such approval, the zoning districts in which a conditional use is available, and the criteria for evaluating each conditional use. The approving authority shall consider the stated criteria, the objectives of the comprehensive plan, and the purpose of the zoning ordinance and its relevant zoning districts when making a decision to approve or disapprove a conditional use request.

Section 4. That chapter 11-2 be amended by adding thereto a NEW SECTION to read as follows:

A conditional use is any use that, owing to certain special characteristics attendant to its operation, may be permitted in a zoning district subject to the evaluation and approval by the approving authority specified in section 3 of this Act. A conditional use is subject to requirements that are different from the requirements imposed for any use permitted by right in the zoning district.